

ARTICLE IX. ABANDONED RESIDENTIAL PROPERTY REGISTRATION AND MAINTENANCE

Sec. 19-200. Purpose.

The City of Farmington finds that the number of home foreclosures within the city has increased dramatically recently, and that many of these homes are frequently vacated before completion of foreclosure proceedings. The city further finds that many of the affected homes are retaken by banks and other large financial institutions that have little connection to the city. Many of these homes sit empty for months or years at a time, often creating a nuisance condition.

It is the purpose and intent of the City of Farmington, through the adoption of this article requiring the registration and maintenance of abandoned residential properties by parties asserting a collateral or other legal or other interest in such properties, to establish a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and to provide for the security of abandoned properties. Nothing in this article shall be construed as waiving, relieving or otherwise excusing an owner of residential property from compliance with applicable property maintenance rules and regulations, and such owner or owners shall at all times remain responsible and liable therefore.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-201. Definitions.

For the purposes of this article, certain words and phrases are defined as follows:

Abandoned means a property that is vacant and is under a current complaint for foreclosure or notice of foreclosure and/or notice of trustee's sale, pending tax sale, and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure, and/or that have transferred under a deed in lieu of foreclosure/sale.

Accessible property means a property that is accessible through a compromised/breached gate, fence, wall, etc.

Accessible structure means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Agreement means any agreement or written instrument that provides that title to residential property shall be transferred or conveyed from one (1) owner to another owner after the sale, trade, transfer, or exchange.

Assignment of rents means an instrument that transfers the beneficial interest under a mortgage from one (1) lender/entity to another.

Buyer means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

Dangerous building means any building/structure that is in violation of any condition referenced in chapter 19, article II, of the City Code.

Days means consecutive calendar days.

Deed in lieu of foreclosure/sale means a recorded document that transfers ownership of a property from the trustor to the holder of a mortgage upon consent of the beneficiary of the mortgage.

Default means the failure to fulfill a contractual obligation, whether monetary or conditional.

Distressed means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

Evidence of vacancy means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the borrower defaults.

Local means within forty (40) road/driving miles distance of the subject property.

Mortgage means by which an interest in land is created by a written instrument providing security for the performance of a duty or obligation or the payment of a debt.

Neighborhood standard means those conditions that are present on a simple majority of properties within a three hundred-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the three hundred-foot radius, shall not be counted toward the simple majority.

Out of area means in excess of forty (40) road/driving miles distance of the subject property.

Owner means every person, entity, service company, property manager, or real estate broker, who alone or severally with others:

- (1) Has a legal or equitable interest in any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise; or
- (2) Has care, charge, or control of any dwelling, dwelling unit, or parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the holder or legal title; or
- (3) Is a mortgagee of any such property; or
- (4) Is an agent, trustee, or other person appointed by the courts and vested with possession or control of any such property; or
- (5) Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, this article shall not apply to a condominium association created pursuant to MCL 569.1 et seq. to the extent that such Association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or
- (6) Is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

Property means any unimproved or improved real property, or portion thereof, situated in the city, and includes the buildings or structures located on the property regardless of condition.

Residential building means any improved real property, or portion thereof, situated in the city, designed, or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as residential whether or not it is legally permitted and/or zoned for such use.

Secure or *secured* means such measures as may be directed by the City of Farmington Code Official or his or her designee that render the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, and the repair or boarding of doors, broken windows and/or other openings. In the case of broken windows, securing means the reglazing or boarding of the window. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required. In addition, secure or secured means closing and locking windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a person to access the interior of a property and/or structure(s).

Vacant means a building/structure that is not legally occupied.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-202. Registration.

Any owner shall perform an inspection, to the extent permitted by law, within five (5) days after either filing a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement). If the property is found to be vacant or shows evidence of vacancy, it is, by this article, deemed abandoned and the owner shall, within ten (10) days of the inspection, register the property with the City of Farmington Code Official head or his or her designee on forms provided by the city.

If the property is occupied but remains in default it shall be inspected, to the extent permitted by law, by the owner, or a designee, monthly until (1) the owner of record remedies the default or (2) the property is found to be vacant or shows evidence of vacancy, at which time it is deemed abandoned and the owner shall, within ten (10) days of that inspection, register the property with the City of Farmington Code Official head or his or her designee on forms provided by the city.

The registration shall contain the name of the owner (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out-of-area owner, the local property management company responsible for the security, maintenance, and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or the remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1 of each year and must be received no later than January 31 of the year due.

For properties that are not registered within the required time, an additional fee for the added cost of the city's expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable. The payment of all fees required under this article is secured by a lien against the property which may be placed on the tax roll for collection in the same manner and subject to the same interest and penalties applicable to delinquent special assessments.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the mortgagee involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale. Such properties shall be registered with the city in accordance with the terms of this section upon transfer even if occupied at the time of the transfer.

Properties subject to this article shall remain under the annual registration requirement, security, and maintenance standards of this section as long as they remain vacant.

Any person, firm, or corporation that has registered a property under this article must report any change of information contained in the registration to the City of Farmington Building Department within

ten (10) days of the change.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-203. Maintenance requirements.

Vacant and abandoned properties subject to this section must comply with chapter 24, property maintenance. In addition, such property shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be maintained in accordance with property maintenance standards in this City Code, including chapter 24, property maintenance.

Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning, and moving of required landscape and removal of all trimmings.

Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry, and must comply with the minimum security fencing requirements of the State of Michigan.

Adherence to this section does not relieve the owner of any obligations set forth in any covenants, conditions, and restrictions and/or homeowners' association rules and regulations which may apply to the property.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-204. Security requirements.

Properties subject to this section shall be secured so as not to be accessible to unauthorized persons.

If the owner is out-of-area, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-205. Additional authority.

In addition to the enforcement remedies established in this chapter 19, or in chapter 24 of the City of Farmington Code of Ordinances relating to property maintenance, the City of Farmington Code Official head or his or her designee shall have the authority to require the owner and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window, or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-206. Fees.

The fee for registering an abandoned residential property shall be set by resolution of the City of Farmington.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-207. Inspections.

The city and/or its agents may conduct necessary inspections as permitted by law to assure compliance with the requirements of this Code and to determine if there are emergency or hazardous health and safety conditions in existence.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-208. Reoccupancy.

An abandoned residential structure shall not be occupied until a certificate of occupancy has been issued by the city, and all violations have been corrected in accordance with the applicable requirements of the Michigan Building/Residential Code, Michigan Electrical Code, Michigan Mechanical Code, Michigan Plumbing Code, International Property Maintenance Code, and applicable provisions of the City of Farmington Code of Ordinances. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good repair. In addition, a certificate of occupancy shall not be issued until all outstanding costs, assessments and/or liens owed to the city have been paid in full.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-209. Violation/abatement.

Violations of this article may be enforced as allowed in chapter 24, property maintenance, of the City of Farmington Code of Ordinances. Alternatively, at the sole discretion of the city, the city may issue to the beneficiary/trustee/owner and/or owner of record a notice to abate. The notice to abate shall include:

- (1) The nature and location of the violation;
- (2) The time within which the violation must be abated;
- (3) Notice that the city may act to abate the violation if it is not abated by the owner within a reasonable time stated in the notice, but which may not exceed fifteen (15) days;
- (4) Notice that the cost of such action by the city, plus an administrative fee, shall be a personal debt of the owner, which may be assessed as a lien against the property until paid; and
- (5) Notice that any refusal to allow the city to abate an uncorrected violation shall be a separate violation under this Code.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-210. Authorization for city abatement.

Upon failure of an owner to abate a violation as ordered in a notice to abate, the city may abate

the nuisance. This abatement may be performed by the city, by a contract vendor, or by other means determined by the city.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-211. Administrative fees.

The fees necessary for the administration of this article and authorized by section 19-213 shall be established from time to time by resolution of the city council. Such administrative fees may include the following:

- (1) Notice to abate;
- (2) Search warrant;
- (4) Warning letter;
- (5) Civil infraction preparation;
- (6) Additional inspections;
- (7) Abatement.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-212. Charge to owner.

When the city has abated a cited nuisance, the cost of abatement, plus any applicable administrative charges as established by city council resolution, shall be billed to the property owner. Such billing shall be a personal debt of the owner to the city, which may be assessed as a lien against the property, including interest thereon, until paid.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-213. Appeals.

Any person aggrieved by any of the requirements of this section may appeal to the city council of the City of Farmington, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, the requirements of this Code are adequately satisfied by other means, or the strict application of any requirement of this Code would cause an undue hardship.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)

Sec. 19-214. Penalty.

Violation of this article is a civil infraction in accordance with chapter 1 of the City Code.

(Ord. No. C-740-2009, § 1, 4-6-09; Ord. No. C-743-2009, § 1, 5-18-09)